

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KENTRELL WELCH,

Plaintiff

v.

WILLIAM RUEBART, et al.

Defendants

Case No. 3:22-cv-00389-MMD-CSD

ORDER

I. DISCUSSION

On August 29, 2022, Plaintiff, an inmate in the custody of the Nevada Department of Corrections ("NDOC"), submitted an incomplete application to proceed *in forma pauperis* and a motion for a temporary restraining order. (ECF Nos. 3, 1-1). Plaintiff has not submitted a complaint or a fully complete application to proceed *in forma pauperis*.

Under Federal Rule of Civil Procedure 3, "[a] civil action is commenced by filing a complaint with the court." Fed. R. Civ. P. 3. As such, the Court grants Plaintiff until **November 19, 2022**, to submit a complaint to this Court.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**.

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1 Plaintiff has not submitted an application to proceed *in forma pauperis* on this
2 Court's approved form or a financial certificate to the Court. Rather, Plaintiff filed
3 submitted a state court application to proceed *in forma pauperis*. (ECF No. 3).
4 Furthermore, the inmate account statement that Plaintiff submitted is from September
5 2020 through March 2021. Plaintiff must submit an account statement for the previous
6 six-month period. Accordingly, the Court denies Plaintiff's application to proceed *in forma*
7 *pauperis* (ECF No. 3) without prejudice because the application is incomplete. The Court
8 will grant Plaintiff a one-time extension to file a fully complete application to proceed *in*
9 *forma pauperis* containing all three of the required documents. Plaintiff will file a fully
10 complete application to proceed *in forma pauperis* on or before **November 19, 2022**.
11 Absent unusual circumstances, the Court will not grant any further extensions of time.

12 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*
13 with all three required documents on or before **November 19, 2022**, this case will be
14 subject to dismissal without prejudice for Plaintiff to file a new case with the Court when
15 Plaintiff is able to acquire all three of the documents needed to file a fully complete
16 application to proceed *in forma pauperis*.

17 A dismissal without prejudice means Plaintiff does not give up the right to refile the
18 case with the Court, under a new case number, when Plaintiff has all three documents
19 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
20 may choose not to file an application to proceed *in forma pauperis* and instead pay the
21 full filing fee of \$402 on or before **November 19, 2022**, to proceed with this case.

22 II. CONCLUSION

23 For the foregoing reasons, IT IS ORDERED that Plaintiff will submit a complaint to
24 this Court on or before **November 19, 2022**.

25 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
26 approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same. The
27 Clerk of the Court will also send Plaintiff a copy of his motion for a temporary restraining
28 order. (ECF No. 1-1).

1 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*
2 (ECF No. 3) is denied without prejudice to file a new fully complete application to proceed
3 *in forma pauperis* with all three documents.

4 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
5 approved form application to proceed *in forma pauperis* by an inmate, as well as the
6 document entitled information and instructions for filing an *in forma pauperis* application.

7 IT IS FURTHER ORDERED that on or before **November 19, 2022**, Plaintiff will
8 either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and
9 the \$52 administrative fee) or file with the Court:

10 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
11 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
12 signatures on page 3),

13 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
14 official (i.e. page 4 of this Court's approved form), and

15 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
16 **previous six-month period.**

17 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a fully
18 complete application to proceed *in forma pauperis* with all three documents or pay the full
19 \$402 filing fee for a civil action on or before **November 19, 2022**, this case will be subject
20 to dismissal without prejudice for Plaintiff to refile the case with the Court, under a new
21 case number, when Plaintiff is able to file a complaint and has all three documents needed
22 to file a complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

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24 DATED THIS 20th day of September 2022.

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26 UNITED STATES MAGISTRATE JUDGE
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